



UPDATE ON NSFF

TO: All LEA Superintendents and Business Managers

FROM: Ted Stilwill, Director, Iowa Department of Education
David Vaudt, Iowa State Auditor

RE: National School Fitness Foundation (NSFF)

DATE: May 5, 2004

On March 23, we issued a joint statement to advise school districts of several concerns that have been raised about NSFF and its L.I.F.T. (Leadership in Fitness Training) program.

On May 3, 2004, NSFF gave notice to hundreds of U.S. school districts, including several in Iowa, that it cannot make its reimbursement payments this month to those districts. A vice president for NSFF is quoted in the media as saying that their "fundraising has not met expectations." Furthermore, the vice president stated that whether payments to districts will be made up or will resume in June depends on "the generosity of donors."

Although NSFF has blamed its lack of donations on an investigation by several Minnesota state agencies (see our March 23, 2004 statement for particulars), financial records show that donations have made up only .2% (2/10 of 1%) of that group's income during the past year.

In the wake of the non-payment by NSFF, districts are beginning to ask: Who owns the equipment?

We advise that you have your local attorney review your NSFF contract (and any other documents with that group). The terms of the contract should address this issue, and local counsel can assist districts in making decisions about how to go forward.

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Utah charity says it can't repay 19 Minnesota schools

Robert Franklin

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A Utah charity said Monday that it can't make payments this month to hundreds of U.S. school districts -- 19 of them in Minnesota -- that were expecting reimbursement for "free" fitness equipment.

The charity, the National School Fitness Foundation, has been under investigation by three Minnesota state agencies, and Attorney General Mike Hatch said that its operations have "all the signs of ... the largest Ponzi scheme we've seen ever."

Hatch and State Auditor Pat Anderson said the foundation has been using a pyramid or Ponzi scheme to use money from newly-enlisted school districts to pay off those that signed up earlier to buy or lease-to-buy fitness equipment and training.

The idea is that the districts contract for equipment from a for-profit company and then are reimbursed by government or charitable grants through the foundation, although reimbursement is not guaranteed.

"Usually a Ponzi scheme involves little old ladies," said Hatch, who put the foundation's unaudited liability at \$77.5 million as of Dec. 31. "To be able to take that kind of money out of government agencies is stunning."

In a hearing brief filed Monday, Hatch's office included a foundation attorney's warning from last June that "if the deficit grows too large and NSFF [the foundation] is unable to continue bringing new schools on board to fund its operations, NSFF could potentially implode and be unable to meet the commitments it has made to fund school obligations."

The foundation denied Monday that it is engaged in a pyramid scheme and said it is committed to continue charitable fundraising to repay the schools. However, it reiterated that it cannot guarantee donations or government grants to finance its operations.

The charity had paid nearly \$32 million to schools in its four years of operation, said Chris Rees, vice president for public relations, and it has been given sculpture and sculpture molds that it is trying to sell for close to a \$34 million appraised value.

"Clearly, our fundraising has not met expectations," Rees said. Whether payments to schools will be made up or begin again next month depends on "the generosity of donors" and on selling the collection from the estate of Earl Wesley Bascom, a working cowboy who became an internationally known artist before his death in 1995.

The foundation blamed its inability to make payments this month on the Minnesota investigation, along with "rapidly depleting revenue streams and donation." It urged school districts to do fundraising on their own, to consider renegotiating local financing agreements and to sell gym memberships in their communities.

The Yellow Medicine East district, one of at least 19 districts affected in Minnesota, is considering those suggestions, said Superintendent Duwayne Strand, of Granite Falls. "Right now, we're just looking at what our options are."

The district got fitness equipment and training for its four schools in February at a cost of more than \$700,000 and received one monthly reimbursement payment, he said. He also said, however, that "it's a great program for kids."

In Minneapolis, spokeswoman Melissa Winter said the school district piloted the program successfully in two schools, then added six more.

Its cost was \$1,441,000, but foundation reimbursements so far have cut that to \$1.3 million, Winter said. "The schools that have this equipment ... they believe it's a real asset to their students and their health and their well-being. It's unfortunate that this situation has arisen."

Other districts involved, according to state officials, include Barnum, Brainerd, Byron, Chisago Lakes, Delano, Duluth, Fergus Falls, Floodwood, Glencoe-Silver Lake, Hinckley-Finlayson, Lake Superior at Two Harbors, Nevis, New York Mills, Sauk Centre, Southland Adams, Spring Lake Park and White Bear Lake.

Minnesota's attorney general, auditor and Commerce Department all have questioned the risks and legality of the program, called L.I.F.T. (Leadership in Fitness Training) America.

Hatch's brief, prepared for a hearing ordered by the Commerce Department, said the plan amounted to sales of unregistered securities, failed to disclose relationships between people involved in the foundation and its for-profit suppliers, and included misrepresentations about fundraising, costs of equipment and threats to the foundation's nonprofit status.

Hatch said Monday that the upshot may include investigations by federal officials and "a lot of finger-pointing" involving lenders and public officials who endorsed the plan.

In fact, according to Hatch's brief, foundation attorney Bruce Olson warned that the organization faces the possibility of IRS action, tax payments and lawsuits from school districts.

Anderson said the foundation's reports indicate that it may have had as much as \$50 million in assets as of July 1, while payments to school districts were about \$3 million a month nationwide.

"So the question is why can't they make any payments?" she said. "Does the cash still exist? If so, where is it?"

The foundation's Rees said it did not have \$50 million, but "I wish we did."

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